

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE BOARD OF TRUSTEES OF THE
LOCAL 295-IBT EMPLOYER GROUP
PENSION FUND and THE LOCAL 295-IBT
EMPLOYER GROUP PENSION FUND,

Plaintiffs,

-against-

WORLD TRADE CFS, LLC, a/k/a WORLD
TRADE, INC.,

Defendant.

ECF

COMPLAINT

18-CV-

Plaintiffs, the Board of Trustees of the Local 295-IBT Employer Group Pension Fund and the Local 295-IBT Employer Group Pension Fund (the "Pension Fund") by their attorneys, Cary Kane LLP, respectfully allege as follows:

Nature of the Action

1. This is an action brought by the fiduciaries of an employee benefit fund to collect unpaid contributions from participating employer World Trade CFS, LLC, a/k/a World Trade, Inc. ("World Trade") in accordance with plan documents and Sections 502 and 515 and of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. §§ 1132 and 1145.

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to Section 502 of ERISA, 29 U.S.C. §§ 1132.

3. Venue properly lies in this judicial district pursuant to Section 502(e)(2) of ERISA, 29 U.S.C. §§ 1132(e)(2), because the Pension Fund is administered in this district.

The Parties

4. The Pension Fund is a multiemployer “employee benefit plan”, as defined by Section 3(3) of ERISA, 29 U.S.C. §§ 1002(3). It is administered at 60 Broad Street, 37th Floor, New York, New York 10004. At all times material hereto, the plaintiff Board of Trustees has been the plan sponsor and fiduciary of the Pension Fund.

5. At all times material hereto, World Trade was an “employer” as defined by Section 3(5) of ERISA, 29 U.S.C. §§ 1002(5), with offices located at 147-20 184th Street, Jamaica, New York 11413.

6. Since World Trade is a corporation, it is not an infant, incompetent or in the military service.

Relevant Facts

7. At all times material hereto, World Trade was a party to a collective bargaining agreements (“CBA”) with IBT Local Union No. 295 (the “Union”), which provided the terms and conditions of employment for employees of World Trade represented by the Union (the “Employees”).

8. The CBA obligated World Trade to contribute specified amounts to the Pension Fund each month in order to fund retirement benefits that are provided by the Pension Fund to the Employees.

9. World Trade failed to pay contributions owed to the Pension Fund for the months of December 2017 through August 2018 totaling \$20,299.50

10. World Trade underpaid contributions due for August 2017 by \$370.50.

11. The Fund and Fund counsel contacted World Trade numerous times between January 2018 and August 2018 about World Trade's delinquencies and demanded payment thereof.

12. World Trade agreed to pay the delinquencies, but did not do so.

13. The Trust Agreement under which the Pension Fund is established and maintained (the "Trust") provides that a delinquent Employer shall be liable to the Pension Fund for the costs of collecting all delinquencies and for interest on the delinquencies calculated at a rate equal to 5% above the prime rate in effect on the date the delinquencies were due.

14. The Trust also provides that any judgment in favor of the Pension Fund and against an Employer shall include the contributions due, interest at a rate equal to 5% above the prime rate in effect on the date the delinquencies were due, liquidated damages equal to the greater of 20% of the contributions due or the interest due, attorneys' fees and legal costs.

As and for a First Cause of Action

15. Plaintiffs restate and incorporate by reference each and every allegation of Paragraphs 1 through 14 above.

16. In accordance with the plan documents and applicable law, World Trade is obligated to pay all contributions owed to the Pension Fund for the months of January 2018 through August 2018, as well as any contributions that will become due for subsequent months.

17. World Trade has failed to pay, and is now liable to the Pension Fund for \$20,299.60 in contributions for the months of January 2018 through August 2018 and \$370.50 in contributions for the month of August 2017.

18. World Trade may become liable for additional monthly contributions during the pendency of this action.

19. In accordance with the plan documents and Section 502(g)(2) of ERISA, 29 U.S.C. § 1132(g)(2), World Trade is also liable to the Pension Fund for interest calculated at a rate equal to 5% above the prime rate in effect on the date each month's contributions were due, plus liquidated damages equal to the greater of 20% of the contributions due or the interest due, plus attorneys' fees and legal costs.

Prayer for Relief

WHEREFORE, Plaintiffs pray that the Court enter judgment in their favor and against Defendant World Trade Inc., and more particularly that the Court grant the Plaintiffs the following relief:

- (a) That World Trade pay the Pension Fund \$20,670.10 in contributions owed by World Trade to the Fund for the months of August 2017 and January 2018 through August 2018; and
- (b) That World Trade pay the Pension Fund any unpaid contributions owed by World Trade to the Fund for months subsequent to August 2018 in a sum to be determined; and
- (c) That World Trade pay interest on all unpaid contributions at a rate equal to 5% above the prime rate in effect on the date the contributions were due; and
- (d) That World Trade pay liquidated damages to the Pension Fund in an amount equal to the greater of 20% of the contributions due to the Fund or the interest assessed on the contributions due; and
- (e) That World Trade pay the legal costs and attorneys' fees incurred by the Pension Fund in this action; and
- (f) For such other and further relief as the Court may deem just and proper.

Dated: New York, New York
September 14, 2018

CARY KANE LLP

By:



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